



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,711	06/25/2003	Wayne M. Blackwell	FS-00887	9978
7055	7590	09/20/2006	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	
DATE MAILED: 09/20/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/602,711	BLACKWELL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gregory W. Adams	3652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 2, it is unclear if the mail objects are being loaded into a bucket assembly or a container which is supported by a bucket assembly? If the latter is true, how do the sensors which are part of the bucket assembly register a fill capacity within a container which can block off photo-eye sensors?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-17, 19-22 & 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilde (US 4,875,327).

With respect to claims 1, 3, 4 & 16, Wilde discloses an actuator system 66 that moves a bucket assembly 10, 12, 14 between upright (FIG. 1), intermediate (C6/L58-62) and full tilt (FIG. 2) positions, at least one sensor 130, 156 which detects whether a bucket assembly has reached a fill capacity at each of the upright positions,

Art Unit: 3652

intermediate positions and full tilt positions, a feedback control system which controls bucket assembly indexing (indicated generally as 200). And, where “to settle” is defined as “to put into order; arrange or fix definitely as desired” ([www.dictionary.com](http://www.dictionary.com)) Wilde discloses putting in order to prevent damage to packed parts. C1/L45-C2/L20. It is noted that one sensor only is required to sense a fill capacity at each of the three positions.

With respect to claim 5, Wilde discloses a safety sensor 158

With respect to claim 6 & 7, Wilde discloses an additional sensor 158 to sense an upright or down position.

With respect to claim 8, Wilde discloses a chute sensor 130.

With respect to claims 9 & 10, Wilde discloses a cradle assembly comprising a shaft 60 coupled to a mounting system 32.

With respect to claim 11, Wilde discloses lift ribs.

With respect to claim 12-15, Wilde discloses a hydraulic system, lift ribs, linkage system, and bucket assembly having a floor and rear wall.

With respect to claims 17 & 19-20, Wilde discloses a loading system comprising an induction mechanism, transporting system 16, 166, chutes 160b-c, bucket assembly 10b-c, 12b-c, 14b-c, 12b-c, one sensor, and feedback control system.

With respect to claim 21, Wilde discloses a method for loading packages comprising:

placing a container 22 in a first tilt position (C6/L33-69);

detecting when a container is full at the first tilt position;

Art Unit: 3652

indexing a container to an intermediate tilt position to enable settling contents;  
detecting when a container is full at an intermediate tilt position; and  
indexing a container to an upright position.

With respect to claim 24, Wilde discloses detecting problems and stopping loading.

With respect to claim 25, Wilde discloses a module 130 which detects when a container is full at a first, intermediate and upright positions, a module 156 which detects a container position (e.g. container position is upright and down, C6/L22), a module 200 which controls container movement based on container capacity.

With respect to claim 26, Wilde discloses a positional sensor 158.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 18 & 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilde in view of Herrin (US 5,797,716).

With respect to claim 2, Wilde does not disclose a sensor determining whether any container is properly positioned. Herrin discloses sensors 66, 67 "for sensing the entering and exiting of containers C therethrough" (C6/L56) to reduce manual labor downtime. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wilde's apparatus to include a sensor

Art Unit: 3652

determining whether a mail holding container is positioned within a bucket assembly, as per the teachings of Herrin, to reduce manual labor downtime.

With respect to claim 18, Wilde discloses a safety sensor 158, an upright and down sensor 156, and a chute sensor 130, and does not disclose a sensor for proper container positioning. Herrin discloses sensor 66, 67 determining whether a container is properly positioned (C6/L56) to reduce manual labor downtime. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wilde's apparatus to include a sensor to determine whether a container is properly positioned within a bucket assembly, as per the teachings of Herrin, to reduce manual labor downtime.

With respect to claim 23, Wilde does not disclose a step of detecting whether a containers is properly positioned prior to loading. Herrin discloses a step of detecting whether a container is properly positioned prior to loading (C6/L46-60) to control lifting of a container and reduce manual labor downtime. C1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Wilde to include a step of detecting whether a container is properly positioned, as per the teachings of Herrin, to control container lifting and reduce manual labor downtime.

### ***Response to Arguments***

Applicant's arguments filed August 23, 2006 have been fully considered but they are not persuasive.

Art Unit: 3652

Claim 2 is indefinite for at least the reason that one cannot determine where the legal boundary of Applicant's invention. While the specification can aid in definitions or enablement for example, but limitations cannot be imported for the purposes of defining that which Applicant considers as the invention. See Applicant's Arguments, Page 9, lines 17-20. Claim 2 is indefinite as its not clear how the sensors can reflect fill capacity through a container wall.

Wilde's sensors 130, 156 detect fill capacity by warning that there is an amount within a container that will cause a backup when then causes a bucket assembly to pivot until a next position is reached wherein filling can continue. C1/L45-C2/L20; C6/L33-50. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a sensor arranged on a container support) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., sensing a container size) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Moreover, Herrin discloses sensing placement of containers through sensors

Art Unit: 3652

66, 67, i.e. if there is a container the sensor allows operation (proper position), if there is no container the sensor disallows operation (improper position). C6/L45-60.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GWA

  
**KATHY MATECKI**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**